



Hundredth Legislature - First Session - 2007
Committee Statement
LB 603

Hearing Date: January 29, 2007

Committee On: Education

Introducer(s): (Raikes, 25)

Title: Change core services and technology funding provisions relating to educational service units

Roll Call Vote – Final Committee Action:

- Advanced to General File
 - X Advanced to General File with Amendments
 - Indefinitely Postponed
-

Vote Results:

- 8 Yes Senators Adams, Ashford, Avery, Burling, Howard, Johnson, Kopplin, and Raikes
 - 0 No
 - 0 Present, not voting
 - 0 Absent
-

Proponents:

Senator Ron Raikes
Randy Peck

Representing:

Introducer
Educational Service Unit #8

Opponents:

Representing:

Neutral:

Virgil Horne

Representing:

Lincoln Public Schools

Summary of purpose and/or changes:

Legislative Bill 603 would combine core services and technology infrastructure funding for educational service units (E.S.U.'s) beginning with the 2008-09 school fiscal year and provide a new distribution formula. The new formula would be an equalized formula that would take into account distance education and telecommunications costs, satellite offices, sparsity, the number of students served, and a base amount for each E.S.U.

Beginning with school fiscal year 2008-09, funds appropriated for core services and technology infrastructure would be distributed as follows:

1. The distance education and telecommunications allowance would equal 85% of the costs for telecommunications services, access to data transmission networks, and the transmission of data on such networks minus the receipts from the federal Universal Service Fund and minus any receipts from school districts or other educational entities for payment of such costs;
2. The base allocation for each educational service unit would equal 2.5% of the funds appropriated;
3. The satellite office allocation would equal 1% of the funds appropriated for each office of the E.S.U., except the headquarters, up to the maximum number of satellite offices. The maximum number of satellite offices used for the calculation would equal the difference of the ratio of the number of square miles within the boundaries of the E.S.U. divided by 4,000 minus one with the result rounded down to the closest whole number;

$$\text{Max satellites} = [(\text{sq miles}/4000) - 1] \text{ rounded down}$$

$$\text{Satellite allocation} = 1\% \text{ of appropriation} * \text{satellite offices up to max}$$

4. The statewide adjusted valuation would equal the total adjusted valuation pursuant to used for the calculation of state aid for school districts for all local systems;
5. The adjusted valuation for each E.S.U. would equal the adjusted valuation for all member school districts;
6. The local effort rate would equal \$0.0135 per one hundred dollars of adjusted valuation;
7. The statewide student allocation would equal the amount appropriated plus the product of the statewide adjusted valuation multiplied by the local effort rate minus the base allocation for all E.S.U.'s minus the satellite office allocation for all E.S.U.'s;

$$\text{Statewide student allocation} = \text{appropriation} + (\text{statewide valuation} * \text{LER})$$

- distance education and telecommunications allowance for all
- base allocation for all - satellite allocation for all

8. The sparsity adjustment would equal the sum of 1 plus 0.1 times the ratio of the square miles within the E.S.U. divided by the fall membership of the member school districts;

$$\text{Sparsity adjustment} = 1 + [0.1 * (\text{sq miles} / \text{fall membership})]$$

9. The adjusted students would shall equal the fall membership of the member school districts multiplied by the sparsity adjustment;

$$\text{Adjusted students} = \text{fall membership of member districts} * \text{sparsity adjustment}$$

10. The per student allocation shall equal the statewide student allocation divided by the total adjusted students for all educational service units;

Per student = statewide student allocation / total adjusted students

11. The student allocation would equal the per student allocation multiplied by the adjusted students for the E.S.U.;

ESU student allocation = per student * ESU adjusted students

12. The needs for each educational service unit shall equal the sum of the distance education and telecommunications allowance, base allocation, satellite office allocation, and student allocation for the E.S.U.; and

ESU needs = distance education and telecommunications allowance
+ base allocation + satellite office allocation + student allocation

13. The distribution of core services and technology infrastructure funds for each E.S.U. would equal the needs for the E.S.U. minus the product of the adjusted valuation for the E.S.U. multiplied by the local effort rate.

Distribution = needs – (adjusted valuation * LER)

The department would certify the distribution of core services and technology infrastructure funds to each E.S.U. on or before July 1 for 2008 and each year thereafter. The funds would be distributed in ten as nearly as possible equal payments on the first business day of each month beginning in September and ending in June. Funds would be used exclusively for core services and technology infrastructure with the approval of representatives of two-thirds of the member school districts, representing a majority of the students in the member school districts.

If two or more E.S.U.'s merge, for each of the following two fiscal years, the merged E.S.U. would receive core services and technology infrastructure funds in an amount not less than the core services and technology infrastructure funds that each of the merging E.S.U.'s received in the fiscal year preceding the merger. If the appropriation for core services and technology infrastructure funds for either of the two fiscal years following the fiscal year in which the merger takes place is less than the appropriation for such funds for the fiscal year preceding the merger, core services and technology infrastructure funds would be reduced proportionally.

Section 79-1241 would be amended to limit the current core services funding to school fiscal years prior to 2008-09.

Section 79-1241.01 would be amended to apply the appropriations growth intent language to the new formula.

Section 79-1241.02 would be amended to apply the review requirements for technology projects to projects funded with the new formula.

Section 79-1243 would be amended to limit separate funding to E.S.U.'s for technology infrastructure.

Explanation of amendments, if any:

The committee amendments replace the original provisions with a package of modifications affecting the structure and funding of educational service units (E.S.U.'s) and distance education. The committee amendments are generally derived from the original provisions of LB's 600, 601, 602, 603, 656, and 657.

Educational Service Unit Boundaries

The provisions regarding E.S.U. boundaries were contained in LB 600 and would require the State Board of Education to adjust educational service unit (E.S.U.) boundaries when the boundaries do not align with the boundaries of member school districts. Clarification would also be added to the provisions for the use of a hearing officer to conduct public hearings on E.S.U. reorganization petitions.

A new section would provide that the State Board of Education would adjust E.S.U. boundaries when the boundaries do not align with the boundaries of the member school districts. The State Board would be required to make such adjustments on or before July 31 of each year beginning with July 31, 2007. The boundary adjustments would be required to align the boundaries of the E.S.U. with the boundaries of the member school districts as the school district boundaries existed on July 1 of that year. The adjustments would be referred to the appropriate county and E.S.U. officials to implement the adjustments and to make necessary changes in maps and tax records.

Section 79-1211 would be amended by replacing the requirement for a hearing officer to make a recommendation to the State Board of Education when conducting a public hearing on an E.S.U. reorganization petition. With the new provisions, the hearing officer would be required to issue a summary of the evidence presented and, if directed by the State Board, recommend a decision to the board. In addition to giving the State Board authority to decide whether or not to require a recommendation, the new provisions clarify that the recommendation would not be binding on the State Board.

Section 79-1201 would be amended to include the new section in the Educational Service Unit Act.

An emergency clause would apply to the sections regarding boundary changes.

Educational Service Unit Coordinating Council

Provisions for creating an Educational Service Unit Coordinating Council were contained in LB 601. The Council would be created as of July 1, 2008 and the assets and liabilities of the Distance Education Council would be transferred to the new Council. The Council would be composed of one administrator from each E.S.U. and would be funded by 1% of the core services appropriation, appropriations for distance education, and fees established for services provided to educational entities.

The Council would be required to work toward statewide coordination to provide cost-effective services for students, teachers, and school districts in each E.S.U. A repetitive sentence in the

original provisions for the creation of the Council in LB 601 is removed, which would have separately stated the duty to coordinate distance education. The Council's duties would include, but not be limited to:

1. Preparation of system strategic plans to assure the cost-efficient and equitable delivery of services across the state;
2. Administration of statewide initiatives and provision of statewide services; and
3. Coordination of distance education.

All activities of the Council would be conducted in accordance with the Open Meetings Act. The provisions of the Act could not be construed to require or provide for state control of the operations of any E.S.U. or to abridge the governance ability, rights, or responsibilities of any E.S.U. board.

The Council would be required to appoint a distance education director and would be authorized to appoint a council director, both of whom would serve at the pleasure of the Council. The initial distance education director would be the administrator of the Distance Education Council immediately preceding the formation of the new Council. The directors would receive salaries as determined by the Council. The directors would be reimbursed for their actual expenses incurred in the performance of their duties as provided in §§ 81-1174 to 81-1177.

The directors would perform duties as the Council directs and would not be members of the Council. The Council would also be authorized to appoint or retain other people as deemed necessary.

Section 79-1018.01 would be amended by replacing a reference to the Distance Education Council with a reference to the Educational Service Unit Coordinating Council as of July 1, 2008 for receipts from distance education excluded from school district formula resources. Changes in the original LB 601 were removed that would have only held accountable those fines, penalties, and license funds that were distributed in accordance with Article VII, section 5, of the Constitution of Nebraska.

Section 79-1028 would be amended by replacing a reference to the Distance Education Council with a reference to the Educational Service Unit Coordinating Council as of July 1, 2008 for the budget exception for receipts from distance education.

Section 79-1201 would be amended by including the new provisions and the sections that would be moved in the Educational Service Units Act.

Section 79-1201.01 would be amended by transferring the distance education definitions from § 79-1332 to the Educational Service Units Act.

Section 79-1223 would be amended by deleting a reference to § 79-1332, which would be outright repealed as of July 1, 2008.

Section 79-1233 would be amended deleting a reference to § 79-1332, which would be outright repealed as of July 1, 2008.

Sections 79-1241 and 79-1243 would be amended by limiting the application of the section to fiscal years prior to 2008-09. A new section would require 1% of the funds appropriated for core services and technology infrastructure to be set aside for the Council beginning with fiscal year 2008-09. These provisions are structured differently than in the original LB 601 to coordinate with the other changes to E.S.U. funding contained in the committee amendments.

Section 79-1334 would be amended by striking the section number, which would allow the section to be moved. The section would also be amended by replacing the Distance Education Council with the Educational Service Unit Coordinating Council for distance education responsibilities. The operative date for the changes would be July 1, 2008.

Section 79-1335 would be amended by striking the section number, which would allow the section to be moved. The section would also be amended by replacing the Distance Education Council with the Educational Service Unit Coordinating Council for the distance education brokering and scheduling requirements. The operative date for the changes would be July 1, 2008.

Section 79-1336 would be amended by replacing the Distance Education Council with the Educational Service Unit Coordinating Council as of July 1, 2008, for the entity through which distance education courses would be provided to meet the requirements for equipment reimbursements.

Section 79-1337 would be amended by replacing the Distance Education Council with the Educational Service Unit Coordinating Council as of July 1, 2008 for the coordination of distance education courses eligible for incentives.

Section 86-515 would be amended by replacing the Distance Education Council with the Educational Service Unit Coordinating Council for the Nebraska Information Technology Commission membership requirement. The operative date for the changes would be July 1, 2008.

Section 86-5,100 would be amended by replacing a reference to § 79-1332 with a reference to § 79-1201.01. The definitions in § 79-1332 would be transferred to § 79-1201.01 on the operative date for the section of July 1, 2008.

Sections 79-1332 and 79-1333 would be outright repealed as of July 1, 2008. Section 79-1332 provides distance education definitions. Section 79-1333 provides for the Distance Education Council.

Educational Service Unit Election Districts

Provisions for requiring E.S.U. board members to be elected by election districts were contained in LB 602. A new section would require E.S.U. boards to divide the territory of the E.S.U. into 5 to 12 numbered election districts by December 31, 2007 and after each decennial census pursuant to § 32-553. The new election districts would apply beginning with the nomination and election of E.S.U. board members in 2008. Clarification was added that was not in the original LB 602, which excludes E.S.U.'s with only one member school district from the new election

district provisions. The provisions in the original LB 602 also would have required 12 election districts, instead of allowing 5 to 12.

Section 32-515 would be amended by declaring that the terms of E.S.U. board members elected in 2008 to represent odd-numbered election districts would expire in 2011. The terms of members elected in 2008 to represent even-numbered election districts would expire in 2013. Successor members would be elected for 4 year terms. Language regarding candidates for county representation and at large representation would be deleted. A reference to § 79-1217 for qualifications would be clarified.

Section 32-607 would be amended by deleting language regarding candidates for county representation on E.S.U. boards.

Section 79-1201 would be amended by adding the new section to the Educational Service Units Act.

Section 79-1208 would be amended by requiring a plan for the establishment of new election districts in E.S.U. reorganization petitions.

Section 79-1212 would be amended by requiring the appointment of new board members for election districts to be created pursuant to the plan of reorganization, rather than counties, not represented by the board members of merging E.S.U.'s.

Section 79-1217 would be amended by limiting the current E.S.U. board structure to the time preceding the first Thursday after the first Tuesday in January 2009. Beginning on that date, the E.S.U. boards, except those for E.S.U.'s with only one member school district, would be composed of one member elected to represent each election district. The vacancy provisions would recognize a requirement for the replacement board member to live in the election district to be represented. Provisions for the election of county representatives and at large representatives would be deleted. Provisions specific to the boards of E.S.U.'s 18 and 19 would be replaced with a requirement that E.S.U.'s with only one member school district be governed by the school board of such school district. The changes related to E.S.U.'s with only one member school district were not contained in the original LB 602.

Educational Service Unit Funding Formula

The provisions modifying the core services and technology infrastructure funding for E.S.U.'s were generally contained in the original provisions of LB 603. With the changes proposed in the committee amendments, core services and technology infrastructure funding would be combined beginning with the 2008-09 school fiscal year with a new distribution formula. The new formula would be an equalized formula that would take into account distance education and telecommunications costs, satellite offices, sparsity, the number of students served, and a base amount for each E.S.U.

Beginning with school fiscal year 2008-09, 1% of the funds appropriated for core services and technology infrastructure would be distributed first to the Educational Service Unit Coordinating Council. The provisions for funding the Council were not in the original LB 603, but coordinate

with the provisions for the Council. The remainder of the funds would be distributed to individual E.S.U.'s pursuant to a new section as follows:

14. The distance education and telecommunications allowance would equal 85% of the costs for telecommunications services, access to data transmission networks, and the transmission of data on such networks minus the receipts from the federal Universal Service Fund and minus any receipts from school districts or other educational entities for payment of such costs;
15. The base allocation for each educational service unit would equal 2.5% of the funds appropriated;
16. The satellite office allocation would equal 1% of the funds appropriated for each office of the E.S.U., except the headquarters, up to the maximum number of satellite offices. The maximum number of satellite offices used for the calculation would equal the difference of the ratio of the number of square miles within the boundaries of the E.S.U. divided by 4,000 minus one with the result rounded to the closest whole number;

$$\text{Max satellites} = [(\text{sq miles}/4000) - 1] \text{ rounded}$$

$$\text{Satellite allocation} = 1\% \text{ of appropriation} * \text{satellite offices up to max}$$

17. The statewide adjusted valuation would equal the total adjusted valuation pursuant to used for the calculation of state aid for school districts for all local systems;
18. The adjusted valuation for each E.S.U. would equal the adjusted valuation for all member school districts;
19. The local effort rate would equal \$0.0135 per one hundred dollars of adjusted valuation;
20. Unless otherwise adjusted, the statewide student allocation would equal the amount appropriated plus the product of the statewide adjusted valuation multiplied by the local effort rate minus the sum of the distance education and telecommunications allowance, the base allocation, and the satellite office allocation for all E.S.U.'s;

$$\begin{aligned} \text{Statewide student allocation} &= \text{appropriation} + (\text{statewide valuation} * \text{LER}) \\ &- \text{distance education and telecommunications allowance for all} \\ &- \text{base allocation for all} - \text{satellite allocation for all} \end{aligned}$$

21. The sparsity adjustment would equal the sum of 1 plus one tenth of the ratio of the square miles within the E.S.U. divided by the fall membership of the member school districts;

$$\text{Sparsity adjustment} = 1 + [0.1 * (\text{sq miles} / \text{fall membership})]$$

22. The adjusted students would shall equal the fall membership of the member school districts multiplied by the sparsity adjustment;

$$\text{Adjusted students} = \text{fall membership of member districts} * \text{sparsity adjustment}$$

23. The per student allocation shall equal the statewide student allocation divided by the total adjusted students for all educational service units;

$$\text{Per student} = \text{statewide student allocation} / \text{total adjusted students}$$

24. The student allocation would equal the per student allocation multiplied by the adjusted students for the E.S.U.;

$$\text{ESU student allocation} = \text{per student} * \text{ESU adjusted students}$$

25. The needs for each educational service unit shall equal the sum of the distance education and telecommunications allowance, base allocation, satellite office allocation, and student allocation for the E.S.U.; and

$$\begin{aligned} \text{ESU needs} &= \text{distance education and telecommunications allowance} \\ &+ \text{base allocation} + \text{satellite office allocation} + \text{student allocation} \end{aligned}$$

26. The distribution of core services and technology infrastructure funds for each E.S.U. would equal the needs for the E.S.U. minus the product of the adjusted valuation for the E.S.U. multiplied by the local effort rate.

$$\text{Distribution} = \text{needs} - (\text{adjusted valuation} * \text{LER})$$

In the original provisions of LB 603, the satellite office calculation required the result to be rounded down to the closest whole number.

If two or more E.S.U.'s merge or an E.S.U. receives new member school districts from another E.S.U., for each of the following two fiscal years, the E.S.U. would receive core services and technology infrastructure funds in an amount not less than the core services and technology infrastructure funds that each of the merging E.S.U.'s received in the fiscal year preceding the merger or the amount. The amount received in the preceding year would equal the amount received in such year by any affected E.S.U. multiplied by a ratio equal to the valuation that was transferred to or retained by the E.S.U. for which the minimum is being calculated divided by the total valuation of the E.S.U. transferring or retaining the territory. If the appropriation for core services and technology infrastructure funds for either of the two fiscal years following the fiscal year in which the merger takes place is less than the appropriation for such funds for the fiscal year preceding the merger, the minimum core services and technology infrastructure funds would be reduced proportionally. The provisions for E.S.U.'s receiving new member school districts and specifying the amount received in the preceding year were not in the original provisions of LB 603.

For 2008-09 through 2013-14, each E.S.U. would receive at least 95% of the core services and technology infrastructure funds received in the prior fiscal year. If the appropriation for core services and technology infrastructure funds is less than the appropriation for the prior fiscal year, the minimum core services and technology infrastructure funds would be reduced proportionally. This provision was not in the original provisions of LB 603.

If the minimum core services and technology infrastructure funds exceed the amount that would otherwise be distributed to the E.S.U., the statewide student allocation would be reduced such that the total amount to be distributed would equal the appropriation. This provision was not in the original provisions of LB 603.

The department would certify the distribution of core services and technology infrastructure funds to each E.S.U. on or before July 1 for 2008 and each year thereafter. The funds would be distributed in ten as nearly as possible equal payments on the first business day of each month beginning in September and ending in June. Funds would be used exclusively for core services and technology infrastructure with the approval of representatives of two-thirds of the member school districts, representing a majority of the students in the member school districts.

Section 79-1241 would be amended to limit the current core services funding to school fiscal years prior to 2008-09.

Section 79-1241.01 would be amended to apply the appropriations growth intent language to the new formula.

Section 79-1241.02 would be amended to apply the review requirements for technology projects to projects funded with the new formula.

Section 79-1243 would be amended to limit separate funding to E.S.U.'s for technology infrastructure to school fiscal years prior to 2008-09.

Distance Education Temporary Funding

Temporary funding provisions originally contained in LB 656 would allow up to \$200,000 of leftover funds in the School District Reorganization Fund to be used for aggregation routing equipment and network transport costs for Network Nebraska.

Section 79-1012 would be amended by allowing up to \$200,000 to be used to provide temporary funding for aggregation routing equipment and network transport costs for Network Nebraska if the funds are available in the School District Reorganization Fund after June 30, 2008. The obligations for payments to reorganized school districts will be completed prior to July 1, 2008. The funds would be available for temporary funding until July 1, 2010. Any funds in excess of the \$200,000 minus amounts previously used for temporary funding would be transferred to the Education Innovation Fund on July 1, 2008. The remainder would be transferred to the Education Innovation Fund on July 1, 2010. The original provisions of LB 656 did not reduce the amount to be retained for temporary funding on July 1, 2008 by the amount that had already been used.

For fiscal years 2007-08 through 2009-10, a new section would require the Department of Education to provide temporary funding for aggregation routing equipment and network transport cost for Network Nebraska to the Chief Information Officer from the School District Reorganization Fund. The temporary funding would be for the purchase of aggregation routing equipment, installation costs, and network transport. The funds would be repaid to the Education Innovation Fund on or before June 30, 2010 by the Chief Information Officer from funds collected for the administration of Network Nebraska. The total temporary funding would be

limited to \$200,000. Applications for the temporary funding would be submitted jointly by the Chief Information Officer and the University of Nebraska. Applications would be required to be on a form specified by the Department and would include a description of the equipment to be purchased, a description of how the equipment would be used for distance education, the network transport costs to be supported, and a timeline for repayment. Late repayments would accrue interest at the delinquent tax rate prescribed in § 45-104.02 from the date of the initial receipt of funds.

The Chief Information Officer or the University of Nebraska would be able to appeal the denial of temporary funding or the assessment of interest to the State Board of Education. A representative of the Chief Information Officer or the University would have an opportunity to present information at the first board meeting following the filing of an appeal. If the funding was denied in error, the Department would be required to pay such amount as soon as practical. If interest was assessed in error, such assessment of interest would be corrected.

The State Board of Education would be authorized to adopt and promulgate rules and regulations.

The temporary funding provisions would become effective with the emergency clause. The original provisions of LB 656 did not include an emergency clause.

Distance Education Incentives

The provisions modifying the distance education incentives were contained in the original provisions of LB 657.

Section 79-1201.01 would be amended by defining elementary distance education courses as distance education courses which are delivered with two-way interactive video to students who are enrolled in grades kindergarten through eight. In LB 657, it was § 79-1332 that was amended. The committee amendments to LB 603 with respect to the Educational Service Unit Coordinating Council move the distance education definitions from § 79-1332 to § 79-1201.01.

Section 79-1337 would be amended by allowing incentives for elementary distance education courses if funds are available after equipment reimbursements and incentives for high school courses. The incentives for each course hour would be the lesser of \$10 or the funds available for elementary incentives divided by the hours of elementary distance education courses sent or received by all school districts and educational service units (E.S.U.'s). The elementary incentives for each school district and E.S.U. would be the per hour incentive multiplied by the hours of courses sent or received. The current incentives for high school courses are not modified by this measure and are awarded based on units, with each unit being worth up to \$1,000. Districts sending or receiving a two-way interactive video course receive 1 unit. A course that does not use two-way interactive video receives 1 unit if a student receiving the course is in a sparse or very sparse school district. If a two-way interactive video course is received by a student in a sparse or very sparse school district, the sending district receives an additional unit.

Section 79-1336 would be amended by expanding the equipment reimbursement to include each E.S.U. office with a distance education classroom, up to one office for each 4,000 square miles within the E.S.U. If a school district has one or more former high school buildings with distance education classrooms that are no longer being used as high schools due to a school district merger, the buildings would be deemed a high school buildings for the purpose of determining eligibility for distance education equipment reimbursements. The current provisions allow up to \$20,000 in equipment reimbursements for each E.S.U. and \$20,000 times the number of high schools for each school district.

Senator Ron Raikes, Chairperson